IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6275 OF 1999

Shrikant Adyaprasad Tiwari]
aged 32 years, Occ: Service,]
R/o. Vithoba-Rukmini Bhavan,]
Room No. 4, 1st floor, Lodha Marg]
Nalasopara (E), Dist: Thane]..Petitioner

versus

1. The State of Maharashtra]
through the Secretary, School]
Education Department, Mantralaya]
Mumbai 400 032]

2. The Education Officer]
(Primary), Thane Zilla Parishad]
Thane]

3. The Chairman,]
Saraswati Seva Sangh,]
Bhaktawar Building, III floor]
Station Road, Andheri (West),]
Mumbai 400 058]

4. The Head Mistress,]
Smt. Indira Gandhi Vidyalaya,]
Gokhiware, Nalasopara (East)]
Taluka Vasai, Dist : Thane]..Respondents

Shri N. V. Bandiwadekar Advocate for the Petitioner.
Shri C. R. Sonawane AGP for the Respondents No.1 and 2.
None for the Respondent Nos. 3 and 4, though served.

CORAM : R.M.S. KHANDEPARKAR &
NARESH H. PATIL, JJ.

DATE : 17TH AUGUST, 2006

ORAL JUDGMENT :

1. Heard.

2. Undisputedly, the matter in issue in the present Petition is fully covered by the decisions of this Court in **Kondiba s/o. Dattarao Mirashe vs. State of Maharashtra and others [2003(2)Mh.L.J.432] and** in **unreported decision in the matter of Tukaram Tryambak Chaudharivs.State of Maharashtra and others in Writ Petition No. 4632 of 1999 disposed along with various other similar petitions by Judgment dated 6.5.2004.** In Kondiba's case it was clearly held, thus :

> **"In order to bring parity, it was decided that in respect of 5th to 7th standards teachers should be sanctioned in the ratio of 1:3 per class. It was also resolved that out of every 4 sanctioned teachers, 1st 3 teachers should possess educational qualifications of S.S.C. and D.Ed. and the 4th teacher should be a graduate with B.Ed./ D.Ed. Accordingly, 25% of the posts of teachers for 5th to 7th standards were converted from S.S.C. + D.Ed. to Graduate + B.Ed. / D.Ed. and they were given higher**

pay scale in two stages."

3. Following the said decision, the Division Bench in Tukaram's case (supra) it was held that:

> **"We are of the opinion that in Schools having standards 1 to 7 it is permissible to appoint one teacher having B.Ed. / B.Sc. in terms of the Government Circular as now interpreted by this Court. Considering that all such teacher who were appointed and who possess graduate qualification with B.S., B.Sc., and also B.Ed. are entitled to be treated as trained teachers and will be continued to be paid salary as trained teachers."**

4. Undisputedly, these ruling fairly apply to the facts of the case, in hand, and, therefore the present Petition deserves to be allowed for the reasons stated in Kondiba's case as well as in Tukaram's case, and, is accordingly hereby allowed. Rule is made absolute in terms of prayer clause (b) with no order as to costs.

(R.M.S. KHANDEPARKAR, J.)

(NARESH H. PATIL, J.)